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REMARKS

Reconsideration of the above-identified application in view of the amendments above and the remarks following is respectfully requested.

Claims 35-64 are in this case. Claims 33-45 have been rejected under § 102(b) or § 103(a). Claims 46-64 have been objected to. Independent claims 46, 52 and 58, and dependent claims 36, 38, 39, 41, 44, 45, 48-50, 54-56, 60-62 and 64, have been amended. Independent claim 35 and dependent claims 37, 40, 42 and 43 have been canceled. New independent claims 65, 71 and 73, and dependent claims 66-70 and 72, have been added.

§ 102(b) & § 103(a) Rejections

The Examiner has rejected claims 35-43 under § 102(b) as being anticipated by Emilsson (US 6270391). The Examiner has also rejected claims 44 and 45 under § 103(a) as being unpatentable over Emilsson in view of Nelson (US 6325690). The Examiner's rejections are respectfully traversed.

Turning specifically to claims 42 and 43, these claims were included in the list of claims rejected by the Examiner under § 102(b) over Emilsson. However, the Applicant is unable to identify any basis in the Examiner's comments, or in the Emilsson reference itself, which would justify such a rejection. These claims relate to a fundamental concept according to which the rotation data measuring arrangement is used to derive information relating to motion of the toy (number of turns or rate of rotation). This information is then used in a display as the basis for a number of games which add an entirely new level of functionality to the rotating toy.

Having reviewed carefully the Emilsson reference and the other art of reference, the Applicant respectfully submits that none of the art of record in any way

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teaches or suggests the use of a rotation data measuring arrangement for anything more than synchronization of a display with rotation, and that the features recited in claims 42 and 43 are both novel and non-obvious.

While continuing to traverse the Examiner's rejections, the Applicant has, in order to expedite the prosecution, chosen to submit a new independent claim 65 which recites generically the point of novelty as recited in claims 42 and 43. Features added previously to claim 35 in order to conform to material believed at the time to be allowable have now been omitted from new independent claim 65.

Dependent claims 36, 38, 39, 41, 44 and 45 have been amended to depend from new independent claim 65. Dependent claims 37, 40, 42 and 43 have been canceled. New dependent claims 66-70 have been added. The new dependent claims relate to specific implementations of the game functionality which are facilitated by the features of new independent claim 65.

Support for these amendments can be found in the specification, and specifically, from page 13 line 8 through page 14 line 13.

New independent claim 65 now features language which makes it absolutely clear that the device of the present invention employs a rotation data measuring arrangement to derive information relating to a number of revolutions or a rate of rotation of the device and varies a content of the display on the basis of said information. The Applicant believes that the amendment of the claims completely overcomes the Examiner's rejections on § 102(b) and § 103 grounds.

Additional Claims

The Applicant takes this opportunity to submit herewith a number of additional claims relating to features which further clearly distinguish the present invention over the art of record. Specifically, new independent claim 71 and

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dependent claim 72 relate to an auto power-off feature based on lack of rotation for a predefined time period as disclosed on page 12 lines 4-5. New independent claim 73 relates to an animated display feature as disclosed on page 15 line 22 through page 16 line 2 and following. The Applicant respectfully submits that these features are neither taught nor in any way suggested by the art of record.

Objections to the Claims

The Examiner has indicated that the subject matter of claims 46-64 is allowable. The Examiner has however objected to claims 46-64, stating that they appear to be using § 112 paragraph 6 "means plus function" constructions in an improper manner.

In response, the Applicant respectfully submits that there was no intention of invoking § 112 paragraph 6 structures in these claims, with the sole exception of the "means for detecting the magnetic field of the Earth" in claim 64 which is believed to be correctly formulated.

In order to avoid any misunderstanding of the scope of the claims and to clarify that the claims encompass any and all structures which answer to the explicit claim limitations, the Applicant has chosen to amend claims 46, 48-50, 52, 54-56, 58, 60-62 and 64 to replace the terms including the word "means" with alternative wording while preserving the scope of the claim language as originally intended. Specifically, the changes in terminology are as follows:

- rotation data measuring means → rotation data measuring arrangement
- perturbation generating means → perturbation generating mechanism
- wireless data receiving means → wireless data receiver
- mass moving means → mass moving arrangement

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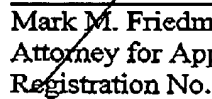
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- air-resistance varying means → air-resistance varying arrangement

The Applicant respectfully submits that these amendments fully address the formal objections raised regarding these claims and thereby render claims 46-64 allowable.

In view of the above amendments and remarks it is respectfully submitted that independent claims 46, 52, 58, 65, 71 and 73, and hence also dependent claims 36, 38, 39, 41, 44, 45, 47-51, 53-57, 59-64, 66-70 and 72, are in condition for allowance. Prompt notice of allowance is respectfully and earnestly solicited.

Respectfully submitted,



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